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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/734,333

12/12/2003

Lance A. Baird

107294

1359

23490

7590

10/17/2006

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EXAMINER

WARTALOWICZ, PAUL A

ART UNIT

PAPER NUMBER

1754

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

✓

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No. 10/734,333	Applicant(s) BAIRD ET AL.	
Examiner Paul A. Wartalowicz	Art Unit 1754	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-13.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Attached.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

*Paul Wartalowicz*  
Paul Wartalowicz  
10/12/06

*Colleen P. Cooke*  
COLLEEN P. COOKE  
PRIMARY EXAMINER

Continuation of 3)

The amendment currently presented will not be entered because it requires further consideration and a new search.

Continuation of 11)

Applicant argues that the '809 reference fails to teach that the inlet temperature of a lag catalytic reforming zone is reduced and the inlet temperature of the lead reforming catalyst zone is increased to restore the original predetermined conversion or product octane to thereby significantly reduce the concentration of carbon monoxide in the net hydrogen product stream. This argument is not persuasive for the following reasons.

The amendment as filed by the applicant will not be entered because a new search would be necessitated by the amendment. The '809 reference meets the limitations of the claims without the amendments entered and therefore the rejection is maintained.

Applicant argues that the differences (incorporated herein from applicant's remarks) between the '809 reference and the '280 reference necessitate that an artisan would have no incentive to utilize the '280 reference to modify the '809 reference in order to arrive at the process of the present invention and that that if the teachings of the '280 reference are adopted, deleterious effects of sulfur would be introduced into the

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controlling contact time. Both references teach treating a hydrocarbon in a catalytic process. The differences between the references do not necessitate that it would not be obvious to combine the references, there is afore mentioned motivation to do so. Because the '280 reference has sulfur in the inlet does not preclude the general teaching of liquid hourly space velocity for the purpose controlling contact time in modification of the '809 reference. The sulfur in the inlet stream of '280 is not critical to the teaching of liquid hourly space velocity for controlling contact time and there is no reason to believe that the teaching in '280 of liquid hourly space velocity for controlling contact time would not be applicable to reference '809 and one of ordinary skill in the art would recognize this. That both references teach a process of contacting hydrocarbons with a catalyst, it would be obvious to modify '809 in view of '280 for the purpose of controlling the contact time of hydrocarbon in contact with a catalyst. Reference '280 is not relied upon to teach the composition of the inlet stream. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues the fact that individual components can be found in the prior art and rearranged is not proper basis for obviousness rejection and that one of ordinary skill in the art would not know the advantages which had been discovered by the

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applicants and described in the specification of the present invention. This argument is not persuasive for the following reasons.

Controlling the contact time in which a hydrocarbon is contacted with a catalyst is the motivation for the '280 reference modifying the '809 reference. There is no teaching in '280 that would make the combination of '809 in view of '280 non-obvious regarding controlling contact time. The differences between the references do not necessitate that it would not be obvious to combine the references, there is afore mentioned motivation to do so. Because the '280 reference has sulfur in the inlet does not preclude the general teaching of liquid hourly space velocity for the purpose controlling contact time in modification of the '809 reference. The sulfur in the inlet stream of '280 is not critical to the teaching of liquid hourly space velocity for controlling contact time and there is no reason to believe that the teaching in '280 of liquid hourly space velocity for controlling contact time would not be applicable to reference '809 and one of ordinary skill in the art would recognize this and that it would be obvious to modify '809 in view of '280.

reforming process of '809 and that '280 teaches away from the reforming process of the present invention. This argument is not persuasive for the following reasons.

Controlling the contact time in which a hydrocarbon is contacted with a catalyst is the motivation for the '280 reference modifying the '809 reference. There is no teaching in '280 that would make the combination of '809 in view of '280 non-obvious regarding controlling contact time. Both references teach treating a hydrocarbon in a catalytic process. The differences between the references do not necessitate that it would not be obvious to combine the references, there is afore mentioned motivation to do so. Because the '280 reference has sulfur in the inlet does not preclude the general teaching of liquid hourly space velocity for the purpose controlling contact time in modification of the '809 reference. The sulfur in the inlet stream of '280 is not critical to the teaching of liquid hourly space velocity for controlling contact time and there is no reason to believe that the teaching in '280 of liquid hourly space velocity for controlling contact time would not be applicable to reference '809 and one of ordinary skill in the art would recognize this. That both references teach a process of contacting hydrocarbons with a catalyst, it would be obvious to modify '809 in view of '280 for the purpose of controlling the contact time of hydrocarbon in contact with a catalyst. Reference '280 is not relied upon to teach the composition of the inlet stream. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues the fact that individual components can be found in the prior art and rearranged is not proper basis for obviousness rejection and that one of ordinary skill in the art would not know the advantages which had been discovered by the applicants and described in the specification of the present invention. This argument is not persuasive for the following reasons.

Controlling the contact time in which a hydrocarbon is contacted with a catalyst is the motivation for the '280 reference modifying the '809 reference. There is no teaching in '280 that would make the combination of '809 in view of '280 non-obvious regarding controlling contact time. The differences between the references do not necessitate that it would not be obvious to combine the references, there is afore mentioned motivation to do so. Because the '280 reference has sulfur in the inlet does not preclude the general teaching of liquid hourly space velocity for the purpose controlling contact time in modification of the '809 reference. The sulfur in the inlet stream of '280 is not critical to the teaching of liquid hourly space velocity for controlling contact time and there is no reason to believe that the teaching in '280 of liquid hourly space velocity for controlling contact time would not be applicable to reference '809 and one of ordinary skill in the art would recognize this and that it would be obvious to modify '809 in view of '280.